



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2021-0482; FRL-9223-02-R3]

Air Plan Approval; Pennsylvania; Revision of the Maximum Allowable Sulfur Content

Limit for Number 2 and Lighter Commercial Fuel Oil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision pertains to the reduction of the maximum allowable sulfur content limit for Number 2 (No. 2) and lighter commercial fuel oil, generally sold and used for residential and commercial furnaces and oil heat burners for home or space heating, water heating or both, from the current limit of 500 parts per million (ppm) to 15 ppm. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2021-0482 at <https://www.regulations.gov>, or via email to gordon.mike@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will

generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **For Further Information Contact** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Mallory Moser, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is 215-814-2030. Ms. Moser can also be reached via electronic mail at moser.mallory@epa.gov.

SUPPLEMENTARY INFORMATION: On September 4, 2020, the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to its SIP to reduce the SIP-approved maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil, generally sold for and used in residential and commercial furnaces and oil heat burners for home or space heating, water heating, or both, in the Pennsylvania from a limit of 500 ppm of sulfur to 15 ppm. The proposed SIP revision continues to allow for the limited sale of higher sulfur fuel under certain specified circumstances, as provided for under the current SIP.

I. Background

The revision consists of an amendment to the Pennsylvania SIP to incorporate a reduction in the SIP-approved maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil in the Commonwealth from a limit of 500 ppm of sulfur to 15 ppm.¹

Combustion of sulfur-containing commercial fuel oil releases sulfur dioxide (SO₂) emissions, which contribute to the formation of regional haze and fine particulate matter (PM_{2.5}), both of which impact the environment and human health. Regional haze is pollution produced

¹ On July 10, 2014, EPA approved a SIP revision incorporating the maximum allowable sulfur content of No. 2 and lighter fuel oil at 500 ppm (79 FR 39330).

by sources and activities that emit fine particles and their precursors which impairs visibility through scattering and absorption of light. Fine particles may be emitted directly or formed from emissions of precursors, the most important of which includes SO₂. PM_{2.5} particle pollution exposure has been linked to a variety of health problems. In addition to improving public health and the environment, decreased emissions of SO₂, and therefore subsequently PM_{2.5}, will contribute to the attainment or maintenance, or both, of their respective national ambient air quality standards (NAAQS).

Pennsylvania is a member of the Mid-Atlantic/Northeast Visibility Union (MANE-VU) Regional Planning Office (RPO), established in 2001, to assist the Mid-Atlantic and Northeast states in planning and developing their regional haze SIP revisions. The other MANE-VU states are Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont. The District of Columbia, certain Native American tribes in the Region, the EPA, the United States Fish and Wildlife Service, and the United States Forest Service are also members of MANE-VU. PADEP revised 25 Pennsylvania. Code 123.22 and is submitting it to EPA as a SIP revision in response to a 2017 “MANE-VU Ask” to pursue adoption of a maximum allowable sulfur content limit of 15 ppm for No. 2 and lighter commercial fuel oil statewide for purposes of reducing regional haze and visibility impairment in Pennsylvania and affected Federal Class I areas.²

II. Summary of SIP Revision and EPA Analysis

Through the September 2020 SIP revision submittal, Pennsylvania seeks to revise its SIP by including amendments to 25 Pa. Code Chapter 123 §22 which set the maximum allowable sulfur content limit for various fuel types. The amendments to 25 Pa. Code Chapter 123.22, reduce the SIP-approved maximum allowable sulfur content limit for No. 2 and lighter

² Areas statutorily designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). There are 156 mandatory Class I areas. The list of areas to which the requirements of the visibility protection program apply is in 40 CFR part 81, subpart D.

commercial fuel oil, generally sold for and used in residential and commercial furnaces and oil heat burners for home or space heating, water heating, or both, from a limit of 500 ppm of sulfur to 15 ppm. These amendments to 25 Pa. 123.22, became effective on September 1, 2020.

In addition to establishing a lower maximum allowable sulfur content limit for No. 2 fuel oil, the PADEP regulation provides for the continued use of fuel at the previous, higher level of 500 ppm sulfur under limited conditions. In order for fuel at the older, higher levels to be used it must be commercial fuel that was stored in Pennsylvania by the ultimate consumer prior to September 1, 2020, which met the applicable maximum allowable sulfur content through August 31, 2020 at the time it was stored. Additionally, the amendments remove the phrase “Beginning July 1, 2016” from 25 Pa. Code 123.22(a)(2)(iii), which is the section that allows for the temporary suspension of the sulfur limit in fuel oil under specific circumstances. This regulation will therefore allow for the continued temporary sale of fuel with higher sulfur levels in accordance with the provisions approved by EPA in the current Pennsylvania SIP. Because the substance of the current approved SIP will not be changed with respect to these temporary suspension provisions, EPA is only taking comment on PADEP’s revision that deletes the phrase “Beginning July 1, 2016” with respect to these provisions.

This proposed SIP revision to implement low sulfur fuel oil provisions is expected to reduce regional haze and visibility impairment in Pennsylvania. Additionally, decreased emissions of SO₂ will contribute to the attainment, maintenance, or both, of the SO₂ and PM_{2.5} NAAQS in Pennsylvania and the MANE-VU region.

III. Proposed Action

EPA has determined that Pennsylvania’s proposed SIP revisions to 40 CFR 52.2020(c)(1), which incorporate amendments made to 25 Pa. Code Chapter 123.22 will lower the maximum allowable sulfur content limit in No. 2 fuel oil and lighter combusted or sold in Pennsylvania and aid in reducing SO₂ emissions. These emissions are a cause of regional haze and reducing them will help to attain the SO₂ and PM_{2.5} NAAQS. EPA is proposing to approve

the September 4, 2020 Pennsylvania SIP revision which amends commercial No. 2 fuel oil and lighter sulfur limits for combustion and sale in Pennsylvania. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Pennsylvania's maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil regulation described in 25 PA. Code Chapter 123. EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region III Office (please contact the person identified in the **For Further Information Contact** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule regarding commercial fuel oil sulfur limits for combustion and sale in the Commonwealth of Pennsylvania, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Regional Haze, Sulfur oxides.

Dated: December 8, 2021.

Diana Esher,
Acting Regional Administrator,
Region III.

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